

REMARKS*Claim Rejections under 35 U.S.C. § 112 (Second Paragraph)*

Applicant has amended claims 1-5, 7-9, 19 and 20 to further clarify the invention.

Applicant has canceled claims 4 and 6 and added claim 20. Claim 20 includes matter consistent with the specification. Following entry of this Amendment, claims 1-3, 5 and 7-20 will be pending. In view of the amendments, Applicant respectfully traverses the rejections of claims 1-3, 5 and 7-19.

In the Office Action, the Examiner rejected claims 4-6 under 35 U.S.C. §112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner identified concerns with the polling and collection of data within an nth period. Applicants have amended the claims in this response and respectfully submit that the Examiner's concerns under 35 U.S.C. §112 have been adequately addressed. Further, claims 4 an 6 have been cancelled in this amendment. Therefore, for at least the foregoing reasons, the §112, second paragraph, rejections of amended claim 5 should be withdrawn.

The Examiner rejected claims 1-18 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant has amended the claims to cancel claims 4 and 6 and to ensure that claim 1-3, 5 and 7-18 recite a technological nexus limited by language within the technological art is used to define the invention.

The examiner rejected claim 19 as allegedly being unpatentable under 35 U.S.C. §102(b), claims 1-12 under 35 U.S.C. §102(b) or 35 U.S.C. §103(a) as allegedly being unpatentable as anticipated by Teicher or obvious over Teicher in view of Halperin. Applicant respectfully disagrees. Teicher is directed to a promotional system in which pricing of items in a store is dynamically changed based on sales activity over a period of time. Teicher does not teach the inventory management systems and methods of the present invention that track purchasing within one or more stores. For example, in response to reduced sales activity attributable to the blocked shelf condition of amended claim 1, Teicher would logically decrease sales price. Thus, Teicher cannot be said to be an inventory management system that, for example, issues alerts identifying blocked shelf conditions.

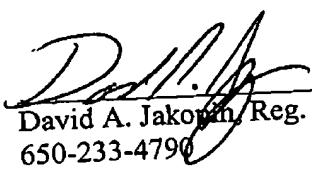
Examiner suggests alternative grounds of rejection under 35 U.S.C. §103(a). However, Applicant respectfully submits that Halperin does not supply the elements acknowledged by the Examiner to be missing from Teicher. Both Teicher and the combination of Teicher and Halperin are incongruent to the present application and therefore do not anticipate or render obvious the inventive matter of the present application. Halperin provides a portable system that is used to count items on a shelf (see col. 2, lines 29-33) and to set prices on changeable labels on the shelf (see col. 2, lines 15-20). Halperin suggests that a user can carry a portable device for recording quantities and changing pricing (see col. 2, lines 5-6) and, therefore, there is no incentive for Halperin to alert the user to a condition that must be visible, given the apparently labor-intensive application of Halperin. Thus, the combination of Teicher and Halperin does not provide a method for issuing an alert when information in the certain data blocks satisfies predetermined criteria and the combination is ineffective in anticipating or otherwise rendering obvious the present invention as set forth in the amended claims.

In view of the above remarks, Applicant requests the withdrawal and reconsideration of the claim rejections for claims 1-5 and 7-19. Applicant respectfully submits that claims 1-5 and 7-20 are in a condition for allowance, and respectfully request a Notice to that effect.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition of allowance and a Notice to that effect is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
PILLSBURY WINTHROP LLP


David A. Jakomin Reg. No. 32,995
650-233-4790

CUSTOMER NO. 27498
2475 Hanover Street
Palo Alto, CA 94304-1114